

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**TENTATIVE
ORDER NO. R9-2011-0013**

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST**

**RUSSO TILE AND MARBLE, INC.
EL CAJON, CALIFORNIA**

FOR

**VIOLATION OF STATE BOARD ORDER NO. 97-03-DWQ
AND WATER CODE SECTION 13260**

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board), having considered in a public meeting on January 12, 2011 all comments received on the issuance of liability against Russo Tile and Marble, Inc. regarding violations alleged in Complaint No. R9-2010-0128, dated September 20, 2010 (Complaint), having provided public notice thereof and not less than thirty (30) days for public comment, and on the recommendation for administrative assessment of Civil Liability in the amount of \$1,700, finds as follows:

1. Russo Tile and Marble, Inc. submitted a Notice of Intent on October 18, 2007 for coverage under State Board Order No. 97-03-DWQ, *National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities (General Permit)*.
2. The integrity and effectiveness of the Industrial NPDES regulatory program relies upon discharger compliance accomplished by self-evaluation and self-reporting. Self-evaluation is accomplished by implementing the programs and provisions of Order No. 97-03-DWQ. Self-reporting is accomplished by the submission of an annual report as outlined in Order No. 97-03-DWQ Section B-14. The annual report includes a summary and evaluation of visual observations and sampling results, laboratory reports and an Annual Comprehensive Site Compliance Evaluation Report. Therefore, timely submittal of the required annual report is critically important for the evaluation of a facility's compliance with water quality standards.

3. Order No. 97-03-DWQ requires the submittal of an annual storm water monitoring report by July 1 of each year. Russo Tile and Marble, Inc. failed to submit the annual report for Fiscal Year (FY) 2008-2009.

Annual Report

4. California Water Code (Water Code) sections 13399.31(d) and 13399.33 direct the San Diego Water Board to impose administrative civil liability in an amount that is not less than one thousand dollars (\$1,000) and recover the costs incurred if a discharger fails to submit the required annual report within 60 days after the San Diego Water Board issues the initial notice of noncompliance.
5. Pursuant to Water Code section 13399.31, the San Diego Water Board issued Notices of Violation dated December 1, 2009 and March 9, 2010 for failure to submit the FY 2008-2009 annual storm water monitoring report. Both notices indicated the penalties associated with the failure to submit the required annual report.

Complaint

6. On September 20, 2010, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R9-2010-0128 to Russo Tile and Marble, Inc. recommending the imposition of \$1,700 in liability for the violations. This amount includes \$700 of costs incurred by the San Diego Water Board to prosecute the enforcement action, including: investigation, preparation of enforcement documents, communications with the Discharger, and preparation of materials for public review and hearing.
7. Issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) pursuant to section 45321(a)(2), Chapter 3, Title 14 of the California Code of Regulations. This action is also exempt from the provisions of CEQA in accordance with section 15061(b)(3) of Chapter 3, Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

IT IS HEREBY ORDERED that pursuant to section 13399.33 of the California Water Code, that civil liability imposed on Russo Tile and Marble, Inc. in the amount of \$1,700, and that Russo Tile and Marble, Inc.'s waiver of its right to a public hearing and offer of \$1,700 in satisfaction of Complaint No. R9-2010-0128 is accepted.

I, David W. Gibson, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on January 12, 2011.

TENTATIVE

DAVID W. GIBSON
Executive Officer

SMARTS: Violation ID 840399
Enforcement ID 402596
WDID No. 9 371021620